

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
CHATTANOOGA DIVISION**

ECOLAB INC., and NALCO COMPANY,
LLC d/b/a Nalco Water, an Ecolab Company
and/or Nalco Water,

Plaintiffs,

v.

ANTHONY RIDLEY and CHEMTREAT,
INC.,

Defendants.

No. 1:22-cv-00050-TRM-SKL

Hon. Travis McDonough

Magistrate Judge Susan K. Lee

**PLAINTIFFS' MOTION FOR EXTENSION OF TIME TO FILE ITS REPLY IN
SUPPORT OF ITS MOTION TO STRIKE [DOC. 273] DEFENDANT CHEMTREAT'S
EXPERT REPORT OF THEIR COMPUTER EXPERT JAMES VAUGHN AND TO
PRECLUDE ANTICIPATED TESTIMONY FROM VAUGHN FOR FAILURE TO
COMPLY WITH FED.R.CIV.P.26(a)**

Plaintiffs Ecolab, Inc. and Nalco Company, LLC ("Plaintiffs"), by and through their undersigned counsel, and pursuant to Rule 6(b)(1)(A) of the Federal Rules of Civil Procedure, hereby move for an extension to file their Reply in support of Plaintiffs' Motion to Strike Defendant ChemTreat's Expert Report of its Computer Expert James Vaughn and to Preclude Anticipated Testimony From Vaughn For Failure to Comply with Fed.R.Civ.P.26(a) ("Plaintiffs' Motion to Strike Expert Vaughn at Doc. 273"). Plaintiffs request that their reply deadline be extended until July 6, 2023 – e.g., the same date on which Defendants' replies are due with respect to nine separation motions which Defendants have filed.

ARGUMENT

On May 25, 2023, Defendants Anthony Ridley ("Ridley") and Defendant ChemTreat, Inc. ("ChemTreat") (collectively, "Defendants") filed a veritable deluge of motions for summary

judgment, motions to exclude opinions offered by Plaintiffs' experts, and motions for sanctions. *See* Docs. 255, 257, 259, 261, 265, 266, 268, 271, and 276. Plaintiffs, for their part, on May 25, 2023, filed only two motions consisting of a motion for partial summary judgment [Doc. 262], and Plaintiffs' Motion to Strike Expert Vaughn at Doc. 273.

Subsequently, on June 6, 2023, all parties, through their counsel, jointly moved the Court for a 14-day extension to "file reply briefs in support of their respective motions for summary judgment, motions to exclude expert opinions, and motions for sanctions (Docs. 255, 257, 259, 261, 262, 265, 266, 268, 271, **273**, and 276)" [Doc. 282] (emphasis added). The Court granted that joint request on June 5, 2023 stating that "the parties shall have **14 days** from the filing of any response brief to file a reply brief in support of their respective motions." [Doc. 285] Pursuant to the Court's prior Order at Doc. 281, the Court had extended Plaintiffs' responses to Defendants' nine motions at Docs. 255, 257, 259, 261, 265, 266, 268, 271, and 276 until June 22, 2023. The effect of the Court's Order at Doc. 285 was to extend Defendants' reply dates in support of their nine motions to **July 6, 2023** – i.e., 14 days after the June 22, 2023 extended response date that Plaintiffs requested and were granted.

Plaintiffs erroneously calendared their date to submit their own reply in support of their motion at Doc. 273 as the same day – **July 6, 2023** – on which Defendants' nine reply briefs are due. In actuality, ChemTreat filed its response to the motion at Doc. 273 on June 8, 2023, making Plaintiffs' deadline to file its reply to that motion due on June 22, 2023. The calendaring mistake referenced above is exclusively the responsibility and mistake of undersigned Plaintiffs' counsel. However, Plaintiffs submit that this calendaring mistake was not intentional, qualifies as excusable neglect, and is related to the nine voluminous motions which Defendants filed. Furthermore, ChemTreat's response to Plaintiffs' Motion to Strike Expert Vaughn at Doc. 273

is in and of itself extremely voluminous consisting of 23 pages plus an additional 170 pages of exhibits. Due to the volume of motions filed by Defendants, Plaintiffs' counsel is currently having to prepare responses to nine motions filed by Defendants at Docs. 255, 257, 259, 261, 265, 266, 268, 271 and 276, all of which are due on June 22, 2023.

Accordingly, given the nine motions filed by Defendants and the nine briefs due in response thereto from Plaintiffs, Plaintiffs' counsel requires an extension to properly respond to Plaintiffs' Motion to Strike Expert Vaughn at Doc. 273. Plaintiffs further submit that, given its calendaring error and the nine response briefs due from Plaintiffs on June 22, 2023, good cause exists for this extension request.

Plaintiffs' request for an extension to reply to Plaintiffs' Motion to Strike Expert Vaughn at Doc. 273 will not delay the proceedings because Defendants' own replies in support of their nine motions at Docs. 255, 257, 259, 261, 265, 266, 268, 271 and 276 are not due until July 6, 2023 [Doc. 285]. Pursuant to Rule 6(B)(1)(a), this Motion is being filed "before the original time or its extension expires" and, for the reasons discussed above, the extension request is made in good faith and supported by good cause.

CONCLUSION

For the above and foregoing reasons, Plaintiffs respectfully submit that good cause exists to extend the deadline for its reply in support of Plaintiffs' Motion to Strike Expert Vaughn at Doc. 273 up to and including **July 6, 2023** – e.g., the same day on which Defendants' replies to their nine separately-filed motions are due.

Dated this 20th day of June 2023.

Respectfully submitted,

ECOLAB INC. NALCO COMPANY, LLC
d/b/a Nalco Water, an Ecolab Company

and/or Nalco Water

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic receipt. Parties may access this filing through the Court's electronic filing system.

/s/ Pavneet Singh Uppal

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